

Procedural Guide

0070-548.13

PROBATE CODE SECTION 1513(c) REFERRALS

Date Issued: **07/25/11** Effective date **08/08/11** (**NOTE: The effective date applies to only those sections highlighted in yellow, the rest of the procedures are currently in effect. This will allow time for SCSW to inform their CSWs of the changes.**)

- ☐ New Policy Release
- ☒ Revision of Existing Procedural Guide 0070-548.13, Probate Code Section 15139(c) Referrals dated 09/28/09

Revision Made: **NOTE: Current Revision are Highlighted**

This Procedural Guide has been revised to reflect modified procedures for completing and submitting reports to the Probate Court per FYI 11-09, Changes to the Processing of Courts Reports to Probate Court. In addition the DCFS 4370, Report of Findings form, has been created for the report of findings in lieu of an Addendum Report.

Cancels: None

DEPARTMENTAL VALUES

This Procedural Guide supports the Department's efforts to ensure child safety.

WHAT CASES ARE AFFECTED

This Procedural Guide is applicable to all new and existing referrals.

OPERATIONAL IMPACT

Probate Code Section 1513, states in pertinent part that unless waived by the court, a court investigator, probation officer, or domestic relations investigator may make an investigation and file with the court a report and recommendation concerning each proposed guardianship of the person or guardianship of the estate. **Investigations where the proposed guardian is a relative shall be made by a court investigator.**

Investigations where the proposed guardian is a nonrelative shall be made by the county agency designated to investigate potential dependency.

In addition Probate Code Section 1513(c) states that if the investigation finds that any party to a proposed guardianship alleges the minor's parent is unfit, as defined by Section 300 of the Welfare and Institutions Code, the case shall be referred to the county agency designated to investigate potential dependencies. The probate guardianship proceedings will not be completed until the investigation is completed and a report is provided to the court in which the guardianship proceeding is pending.

All Probate Code Section 1513(c) referrals from Probate Court shall be made to DCFS through Juvenile Court Services (JCS). JCS staff will be responsible for processing these referrals and obtaining all necessary information from the Probate Court to initiate the investigation. Upon the completion of the investigation the assigned CSW shall provide the Probate Court, through JCS, with a report detailing the results of the investigation. The JCS Liaison shall track the receipt of the report and fax it to the appropriate Probate Court. In addition, JCS will be receiving notification of any court continuances and shall subsequently notify the CSW and SCSW of the continuance via email. Requests for continuances from CSWs shall also be submitted to JCS. See Section A of this Procedural Guide for more detailed instructions.

The investigation of child abuse pursuant to Probate Code Section 1513(c) shall be conducted per existing policy and procedures to determine whether or not DCFS involvement is necessary (voluntary or court). This Procedural Guide provides staff with an overview of how CSWs are to assess child abuse referrals from the Probate Court and the process to notify the Probate Court of the results of the investigation and what, if any, action was taken. However, the instructions provided in this Procedural Guide are meant to support the emergency response investigation. CSWs must follow the procedures set forth by Procedural Guide 0070-548.10, Disposition of the Allegations and Closure of the Emergency Response Referral, and as applicable, related policies.

For requests for case information/records from Family Law or Probate Court, see Procedural Guide 0500-501.10, Releasing DCFS Case Record Information. For information on referrals from Family Law Court, see Procedural Guide 0070-548.14, Family Code Section 3027 Referrals. For information pertaining to a WIC 329 Affidavit (JV 210), see Procedural Guide 0070-548.12, Welfare and Institution Code Section 329 Referrals.

A. WHEN: A REFERRAL PURSUANT TO PROBATE CODE 1513(c) IS RECEIVED FROM PROBATE COURT

Juvenile Court Services Responsibilities

1. Upon receipt of a Probate Court order directing DCFS to conduct a child abuse investigation regarding the child's parent(s), it must be determined if enough information has been provided in order for the Child Protection Hotline (CPH) to

generate a proper referral. If there is not enough information, contact the applicable court and obtain any missing information including the Probate Court minute order, the Probate investigator's Guardianship Report and Petition for Guardianship.

2. Contact the CPH and make a child abuse referral. Fax the Probate Guardianship report, petition for Guardianship or any other paperwork/supporting documents to the CPH.
 - a) File the original Probate order and supporting document in the office-designated file.
3. Track the receipt of the referral or continuance request in the designated office log.
4. Send an email to the assigned ER CSW, refer him or her to the process per this policy and provide the court date and when the report is due to JCS.
5. If notified by Probate Court of a court continuance, advise the appropriate CSW and SCSW.
6. Five business days prior to the hearing, send the CSW, SCSW and ARA a reminder email that the report is due, at least 2 business days before the hearing or 3 business days before the hearing date if requesting a continuance.
 - a) If a continuance request is received from the ER worker, forward the request to the Probate Court **at least two business days** before the scheduled hearing date so that the appropriate parties are notified in time. DCFS shall **not** wait until the day of the hearing to request a continuance.
7. Upon receipt of the notification and the completed DCFS 4370, Report of Findings form from the ER CSW, send to the appropriate Probate Court.
8. Obtain the court results/minute order and provide to the assigned CSW/SCSW.

Child Protection Hotline (CPH) CSW Responsibilities

NOTE: Per agreement with Probate Court, 1513(c) referrals shall be made through JCS and JCS shall then call the CPH to make the referral. In the event that Probate Court has made the referral to CPH and then sends the paperwork to JCS for the same information/allegations, JCS will send the paperwork directly to the assigned ER CSW to avoid duplicate referrals. In addition, If there is currently an open referral and the same issues/concerns/allegations are being investigated, JCS will send the 1513(c) request/paperwork directly to the assigned CSW instead of calling the CPH so that the assigned CSW will be responsible for the report.

1. Process referral (including response time) by established policy and procedures.
 - a) Document in the Screener narrative the following statement:
“The Probate Court has ordered DCFS to investigate a parent’s fitness (i.e., the allegation noted in this referral) under Probate Code Section 1513(c) and to provide a report on the results of your investigation to the court.”
 - b) Ensure that any Probate Court reports or documents are faxed to the office where the referral is assigned.

Child Protection Hotline SCSW Responsibilities

1. Review and approve the referral per established policy and procedures.
2. For referrals received during business hours follow the following assignment criteria when mapping the referral:
 - If the identified victim resides in the home of the prospective guardian and there are no siblings residing with the biological parents map the referral to the office where the child resides.
 - If the identified victim resides in the home of the prospective guardian and there **are** siblings residing with the biological parents map the referral to the office where the siblings reside.
 - If the identified victim resides in the home of the prospective guardian and the parent resides in an adjacent county and there are no siblings residing with the biological parents map the referral to the office where the child resides.
 - If the parent resides in an adjacent county and there **are** siblings residing with the biological parents, contact that County’s Child Abuse Hotline and make a referral regarding those children. In addition, map the referral to the office where the child in Los Angeles County resides.
 - If the referral is received after hours and it is an immediate response, assign the case to ERCP. If it is a 5-day assign to the appropriate regional office.

ER CSW (including ERCP) Responsibilities

1. Respond to the referral pursuant to established policy and procedures.
See Procedural Guide 0070-547.11, Timeframes for Responses to Referrals.
2. Review any Probate court reports or documents. In the event that the Probate Court minute order and Guardianship report are not attached, contact Juvenile Court Services liaison at (323) 526-6890 to obtain them.
3. Complete the child abuse investigation pursuant to established policies and procedures, including a determination of whether or not DCFS involvement is

necessary (voluntary or court). See Procedural Guide 0070-548.10, Disposition of the Allegations and Closure of the Emergency Response Referral.

REMINDER: As part of the investigation, the CSWs should interview the child victim and take note of the care being provided for the child by the prospective caregiver, the physical condition of the caregiver's home and if there are any safety or risk factors present. If any safety or risk factors are present, take all appropriate steps to ensure the safety of the child.

4. After completing the child abuse investigation, complete the Report as follows:
 - a) Prior to creating the report, review the on-line case record to ensure that all identifying information (e.g., names, addresses, etc.) are recorded and current. If necessary, update the case record.
 - i) If necessary, consult with the County Counsel for assistance.
 - b) Access and save the report through the Case Management Notebook, Case Plan folder. Click on 'Create New Document' then select Los Angeles County in the drop down menu, and then click on DCFS 4370, Report of Findings.
 - c) Complete the DCFS 4370, Report of Findings report. On the top of the page, provide the Probate Court address, hearing date, department number in each of their respective fields. Provide the following information under the headings noted below:

IN THE MATTER OF

Enter the name of each child, date of birth, sex and the Probate Court Number(s).

CHILD(REN)'S WHEREABOUTS

Indicate the whereabouts of each child.

PARENT(S) INFORMATION

Enter the name, date of birth and address of the parent(s). Use the comment section as needed to discuss the identity and whereabouts of the parent(s).

INDIAN CHILD WELFARE ACT STATUS (ICWA)

Select if the "Indian Child Welfare Act does or may apply", or "Not Applicable". If it has been determined that a child may be or is an American Indian, consult with the Indian child's tribe and include in this section information provided by the tribe.

REASON FOR HEARING

Enter the following:

“The matter is before the court to provide a report regarding the results of the child abuse investigation conducted on (enter the date the investigation was completed) by the Department of Children and Family Services”

ASSESSMENT/EVALUATION

Provide a brief summary of the results of the investigation by addressing the following sections:

If it doesn't apply, state why briefly.

Household Composition

Provide a brief description of the composition of the household (intact, divorced, blended, foster family, other adults in the home etc.)

Contacts Made

List all family members seen by name (including their ages) and their relationship to each other.

Allegations and Disposition

- State the allegations and which children were victims of what and by whom.
- Provide a brief summary of how each allegation was concluded. Include the factors considered in making that determination. Reference any reports from law enforcement, doctors, school therapist, agencies and/or individuals.
- Provide a succinct summary of your review of any prior child welfare history.
- As applicable, include a factual summary of the threats identified on the SDM Safety Assessment and when applicable the SDM Risk Assessment, which led to the disposition and intervention without referencing the tool itself. Do not attach any SDM tools when submitting documents to court, unless ordered by the court to do so.
- When applicable, indicate that criminal record checks on the parent(s) were conducted and were reviewed.
- If applicable, report any safety or risk factors/concerns regarding the caregiver that were revealed during the investigation, and what if any action was taken to resolve those concerns.

- Provide a brief description of what action if any was taken at the conclusion of the investigation, (i.e., referral closed, a voluntary agreement with parents, placement, etc.).

ATTACHMENTS

List any attachment(s).

FINDINGS

Based on the results of your investigation, indicate whether or not the child's parent(s) are suitable to care for their child.

ER CSW Responsibilities

5. Submit the **DCFS 4370, Report of Findings** with listed attachments for approval. Sign and date the hard copy.
6. Submit the hard copy of the report and all supporting documents to the SCSW for approval.
7. If unable to complete the investigation/report in time for the court hearing, fax a continuance request using the DCFS 4216, Last Minute Information for the Court, to the JCS Liaison as soon as possible but no later than **at least 3 business days** prior to the hearing.
 - a) Provide a brief explanation as to why a continuance is needed and submit to the ER SCSW and ARA for approval.
9. Upon obtaining the necessary approval from the SCSW and/or ARA, fax the report to the JCS Liaison [(323) 881-0183].

ER SCSW Responsibilities

1. Review the report and any supporting documents including any SDM tools used.
 - a) If not approved, request corrective action on-line and return the packet to the CSW.
 - b) If approved, sign the report and return the packet to the CSW.

APPROVAL LEVELS

Section	Level	Approval
A.	SCSW	Disposition for each child in CWS/CMS, all SDM tools used; DCFS 4370 and continuance request
	ARA	Disposition requiring ARA approval as set forth by Procedural Guide 0070-548.10, Disposition of the Allegations and Closure of the Emergency Response Referral; continuance request
	RA	Disposition requiring RA approval as set forth by Procedural Guide 0070-548.10, Disposition of the Allegations and Closure of the Emergency Response Referral

OVERVIEW OF STATUTES/REGULATIONS

Probate Code Section 1513(c)

If the investigation finds that any party to the proposed guardianship alleges the minor's parent is unfit, as defined by Section 300 of the Welfare and Institutions Code, the case shall be referred to the county agency designated to investigate potential dependencies. Guardianship proceedings shall not be completed until the investigation required by Sections 328 and 329 of the Welfare and Institutions Code is completed and a report is provided to the court in which the guardianship proceeding is pending.

Welfare and Institutions Code Sections 328

Whenever the social worker has cause to believe that there was or is within the county, or residing therein, a person described in Section 300, the social worker shall immediately make any investigation he or she deems necessary to determine whether child welfare services should be offered to the family and whether proceedings in the juvenile court should be commenced.

Welfare and Institutions Code Sections 329

WIC Section 329 requires that, whenever any person/agency applies to DCFS to commence proceedings in the Juvenile Court, alleging that a child comes within the provisions of WIC Section 300, DCFS shall immediately investigate the matter.

LINKS

California Code
Division 31 Regulations
Title 22 Regulations

<http://www.leginfo.ca.gov/calaw.html>
<http://www.cdss.ca.gov/ord/PG309.htm>
<http://www.dss.cahwnet.gov/ord/PG295.htm>

RELATED POLICIES

[Procedural Guide 0050-502.10](#), Child Protection Hotline (CPH): Basic Responsibilities
[Procedural Guide 0070-547.11](#), Timeframes for Responses to Referrals
[Procedural Guide 0070-548.10](#), Disposition of the Allegations and Closure of the
Emergency Response Referral
[Procedural Guide 0070-548.12](#), Welfare and Institutions Code Section 329 Referrals
[Procedural Guide 0300-503.40](#), Writing the Probate Legal Guardianship Court Report
FYI 11-09, Changes to the Processing of Court Reports to Probate Court

FORM(S) REQUIRED/LOCATION

Hard Copy None

LA Kids: [Probate/Family Law Court Request for Information](#)
[DCFS 4216](#), Last Minute Information for the Court

CWS/CMS: **DCFS 4370**, Report of Findings (**Case Management Notebook**)

SDM: Structured Decision Making (SDM) Safety Assessment tool
Structured Decision Making (SDM) Risk Assessments tool
Structured Decision Making (SDM) Safety Plan